

RECEIVED
CENTRAL FAX CENTER

001/009

FEB 19 2008

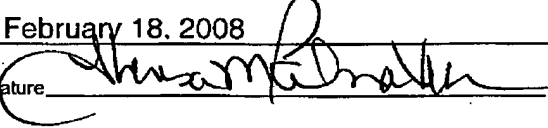
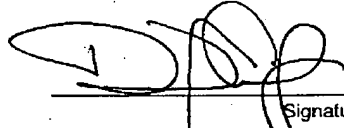
Doc Code: AP.PRE.REQ

PTO/SB/33 (07-05)

Approved for use through xx/xx/200x. OMB 0651-00xx

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional)	
		60469-254; OT5282	
CERTIFICATE OF FACSIMILE I hereby certify that this Pre-Appeal Brief Request For Review and Notice of Appeal are being facsimile transmitted to (571) 273-8300. on <u>February 18, 2008</u> Signature <u></u> Typed or printed name <u>Theresa M. Palmateer</u>		Application Number <u>10/574,653</u>	Filed <u>04/04/2006</u>
		First Named Inventor <u>Richard Kulak</u>	
		Art Unit <u>3654</u>	Examiner <u>Kruer, Stefan</u>
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <p><input type="checkbox"/> applicant/inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p> <p><input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>37,139</u></p> <p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____</p> <p> Signature <u>David J. Gaskey</u> Typed or printed name <u>(248) 988-8360</u> Telephone number <u>February 18, 2008</u> Date</p> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.</p> <p><input checked="" type="checkbox"/> *Total of <u>1</u> forms are submitted.</p>			

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

FEB 19 2008

60,469-254
OT-5282**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Kulak, Richard
Serial Number: 10/574,653
Filed: 04/04/2006
Group Art Unit: 3654
Examiner: Kruer, Stefan
Title: ELEVATOR ROLLER GUIDE WITH VARIABLE
STIFFNESS DAMPER

REQUEST FOR PRE-APPEAL BRIEF REVIEW

Mail Stop AF
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicant respectfully requests Pre-Appeal Brief Review of the final rejection in the Office Action mailed on January 15, 2008, because there is no *prima facie* case of anticipation. The Examiner relies upon the *Fujita* reference (U.S. Patent No. 5,289,902) as teaching something that cannot in any way be found in the reference.

Applicant's independent claims are reproduced here for convenience.

1. A roller guide device for use in an elevator system, comprising:
 - a base;
 - at least one roller supported by the base such that the roller is rotatable about a roller axis and moveable relative to the base in at least one direction perpendicular to the roller axis;
 - a damper that has a selectively variable stiffness and dampens the relative movement of the roller, the damper comprising a fluid having a selectively variable viscosity for varying the stiffness of the damper; and
 - a controller that automatically increases the stiffness of the damper when an associated elevator car is stationary at a landing and decreases the stiffness of the damper when the associated elevator car is moving.

60,469-254
OT-5282

10. An elevator system, comprising:
a car frame;
at least one roller supported for vertical movement with the frame, rotatable movement relative to the frame and lateral movement relative to the frame;
a selectively variable stiffness damper that dampens the lateral movement of the roller relative to the frame, the damper comprising a fluid having a selectively variable viscosity for varying the stiffness of the damper; and
a controller that automatically increases the stiffness of the damper when the car frame is stationary at a landing and decreases the stiffness of the damper when the car frame is moving.
14. A method of controlling lateral movement of an elevator car assembly having at least one roller for riding along a guide rail to facilitate vertical movement of the car assembly, comprising:
selectively and automatically varying an ability of the roller to move laterally relative to the car assembly;
decreasing the ability of the roller to move laterally relative to the car assembly when the car assembly is stationary at a landing by decreasing a viscosity of a fluid that controls the ability; and
increasing the ability of the roller to move laterally relative to the car assembly when the car assembly is moving along the guide rail by increasing a viscosity of the fluid.
18. A method of controlling lateral movement of an elevator car assembly that includes a variable stiffness damper having a fluid of a selectively variable viscosity, comprising the steps of:
automatically increasing a viscosity of the fluid when the elevator car assembly is stationary at a landing; and
automatically decreasing the viscosity of the fluid as the elevator car assembly moves away from the landing.

The *Fujita* reference does not include a controller as contended by the Examiner. The Examiner contends that the controller 25 in Figure 3 of the *Fujita* reference “automatically increases the stiffness of the damper when an associated elevator car (5) is stationary at a landing and decreases the stiffness of the damper when the associated car is moving (col. 7, lines 3-13 and col. 8, lines 53-60).” The *Fujita* reference does not include such a controller. Instead, the only reaction to vibrations described in the *Fujita* reference occurs as a result of an elevator car moving

60,469-254
OT-5282

along guide rails. The *Fujita* reference is entirely silent about any type of control occurring while an elevator car is stationary at a landing.

The *Fujita* reference exclusively and repeatedly indicates that the vibrations at issue in that reference are the result of an elevator car moving along guide rails. Beginning in line 1 of column 5, the *Fujita* reference teaches that it is concerned with "vibration of cage 5 which occurs in response to the windings of the guide rails 3." Every other mention of vibration detection in the *Fujita* reference pertains to movement of the cage 5 along the guide rails 3.

- "When cage 5 vibrates or rolls in response to the resonance generated by the excitement which is caused by the windings of guide rails 3, the vibrations of cage 5 are controlled." (Col. 5, ll. 3-6)
- "Accordingly, small windings and recesses, or undulations, formed on guide rails 3 are absorbed by adjusting spring 16, and the vibrations are not transmitted to cage 5." (Col. 5, ll. 15-18)
- "Accordingly, the vibration due to the rolling of cage 5." (Col. 5, ll. 32-33)
- "Vibration sensors 27...to detect each of the windings of the guide rails 3." (Col. 5, ll. 58-60)
- "When cage 5 rises and falls, vibration sensors 38 disposed on cage 5 detect the amplitude and frequency of the vibration of cage 5." (Col. 6, ll. 42-46)
- "The vibrations due to rolling of cage 5 are absorbed." (Col. 7, ll. 16-17)
- "Windings and recesses, or undulations, formed on the guide rails 3 are absorbed by adjusting spring 16, and the vibrations are not transmitted to cage 5." (Col. 7, ll. 18-21)

60,469-254
OT-5282

- “As described above, when cage 5 rolls in response to the resonance generated by the excitement which is caused by the windings of guide rails 3, the vibrations of cage 5 are controlled.” (Col. 7, ll. 25-28)
- “Control of the vibrations of cage 5...the occurrence of rolling of cage 5.” (Col. 7, ll. 30-33)
- “Detect the windings of guide rails 3 directly.” (Col. 7, ll. 56-57)
- “In accordance with these embodiments, direct current is controlled in response to the detected amplitude and frequency of cage 5, and the vibrations of cage 5 caused by the rolling are absorbed and reduced.” (Col. 8, ll. 7-10)
- “When cage 5 rises and falls, the amplitude and the frequency of cage 5 are detected by vibration sensor 40.” (Col. 8, ll. 35-36)
- “When cage 5 rolls in response to the resonance generated by the excitement which is caused by the windings of the guide rails 3, the vibrations of cage 5 are controlled.” (Col. 9, ll. 4-7)

The *Fujita* reference is also concerned with “the vibration transmissibility from guide rails 3 to cage 5” (Col. 9, ll. 22-23) and providing vibration sensors in some embodiments to “detect the windings of guide rails 3 directly.” (Col. 9, ll. 41-44)

It is clear that in all instances, the *Fujita* reference is concerned with vibrations occurring as a result of the elevator cage 5 moving along the guide rails 3. There is nothing within the *Fujita* reference that can be reasonably interpreted as teaching controlling the stiffness of a damper or the viscosity of a fluid based upon whether an elevator car is stationary at a landing or moving in a hoistway. There is no *prima facie* case of anticipation and the rejection under 35 U.S.C. §102 must be withdrawn.

60,469-254
OT-5282

Additionally, Applicants' claims 19-22 recite the use of information from an elevator machine controller that is used for controlling a viscosity of a fluid or a stiffness of a damper. There is nothing in the *Fujita* reference that in any way corresponds to such information from an elevator machine controller or such use of such information.

Applicant should not be forced to file an appeal brief in this case where there is no *prima facie* case of anticipation and the rejections under 35 U.S.C. §102 must be withdrawn.

Respectfully submitted,

CARLSON, GASKEY & OLDS

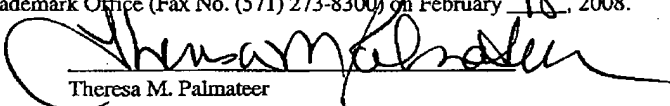
By: 

David J. Gaskey
Registration No. 37,139
400 W. Maple Rd., Ste. 350
Birmingham, MI 48009
(248) 988-8360

Dated: February 18, 2008

CERTIFICATE OF FACSIMILE

I hereby certify that this Request for Pre-Appeal Brief Review, relative to Application Serial No. 10/574,653 is being facsimile transmitted to the Patent and Trademark Office (Fax No. (571) 273-8300) on February 18, 2008.


Theresa M. Palmateer

N:\Clients\OTIS ELEVATOR\00254\PATENT\Request for Pre-Appeal Brief Review 2-08.doc